

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL GERARD CEPEDA,

Plaintiff,

v.

MUNOZ, *et al.*,

Defendants.

Case No. 2:20-cv-00359-RFB-NJK

ORDER

I. DISCUSSION

According to the Clark County Detention Center inmate database, Plaintiff is no longer incarcerated. However, Plaintiff has not filed an updated address with this Court. The Court notes that pursuant to Nevada Local Rule of Practice IA 3-1, a “pro se party must immediately file with the court written notification of any change of mailing address, email address, telephone number, or facsimile number. The notification must include proof of service on each opposing party or the party’s attorney. Failure to comply with this rule may result in the dismissal of the action, entry of default judgment, or other sanctions as deemed appropriate by the court.” Nev. Loc. R. IA 3-1. This Court grants Plaintiff until Friday, November 13, 2020, to file his updated address with this Court. If Plaintiff does not update the Court with his current address by Friday, November 13, 2020, the Court will dismiss this action without prejudice.

Additionally, the Court denies the application to proceed *in forma pauperis* for prisoners (ECF No. 1) as moot because Plaintiff is no longer incarcerated. The Court now directs Plaintiff to file an application to proceed *in forma pauperis* by a non-prisoner by Friday, November 13, 2020, or pay the full filing fee of \$400.

The Court also grants Plaintiff’s motions to amend (ECF Nos. 3, 4) and will screen the amended complaint (ECF No. 4-1) if Plaintiff timely updates his address and files an

1 application to proceed *in forma pauperis* by a non-prisoner. The Court denies the motion
2 for a copy of all federal rules (ECF No. 5).

3 The Court also denies the motion for appointment of counsel (ECF No. 6) without
4 prejudice at this time. A litigant does not have a constitutional right to appointed counsel
5 in 42 U.S.C. § 1983 civil rights claims. Storseth v. Spellman, 654 F.2d 1349, 1353 (9th
6 Cir. 1981). Pursuant to 28 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to
7 represent any person unable to afford counsel.” However, the court will appoint counsel
8 for indigent civil litigants only in “exceptional circumstances.” Palmer v. Valdez, 560 F.3d
9 965, 970 (9th Cir. 2009) (§ 1983 action). “When determining whether ‘exceptional
10 circumstances’ exist, a court must consider ‘the likelihood of success on the merits as
11 well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity
12 of the legal issues involved.” Id. “Neither of these considerations is dispositive and
13 instead must be viewed together.” Id. In the instant case, the Court has reviewed the
14 amended complaint and does not find exceptional circumstances exist to warrant the
15 appointment of counsel.

16 **II. CONCLUSION**

17 For the foregoing reasons, it is ordered that Plaintiff will file his updated address
18 with the Court on or before Friday, November 13, 2020.

19 It is further ordered that Plaintiff’s application to proceed *in forma pauperis* for
20 prisoners (ECF No. 1) is denied as moot.

21 It is further ordered that the Clerk of the Court will send Plaintiff the approved form
22 application to proceed *in forma pauperis* by a non-prisoner, as well as the document
23 entitled information and instructions for filing an *in forma pauperis* application.

24 It is further ordered that on or before Friday, November 13, 2020, Plaintiff will
25 either: (1) file a fully complete application to proceed *in forma pauperis* for non-prisoners;
26 or (2) pay the full filing fee of \$400.

1 It is further ordered that, if Plaintiff fails to timely update his address and submit an
2 application to proceed *in forma pauperis* by a non-prisoner, the Court will dismiss this
3 case without prejudice.

4 It is further ordered that the motions to amend (ECF Nos. 3, 4) are granted.

5 It is further ordered that, if Plaintiff timely updates his address and submits an
6 application to proceed *in forma pauperis* by a non-prisoner, the Court will screen Plaintiff's
7 amended complaint (ECF No. 4-1).

8 It is further ordered that the motion for a copy of the federal rules (ECF No. 5) is
9 denied.

10 It is further ordered that the motion for appointment of counsel (ECF No. 6) is
11 denied without prejudice.

12 DATED: October 14, 2020.

13
14 

15 UNITED STATES DISTRICT JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28